

## REMARKS

Applicants respectfully traverse the rejection of record.

Applicants have amended the claims to more definitively distinguish the present invention from the cited prior art.

Applicants have amended the specification to conform to the amended claims viz. claim 10. Applicants enclose a courtesy clean copy of those amendments. No new matter has been added.

Applicants have amended the claims to appropriately claim the method steps.

Claim 24 is cancelled. Claim 25 is added.

As best understood the claims, as amended, stand rejected under 35 USC § 103(a) as allegedly being obvious and unpatentable over Tonar et al '431..

Tonar et al. expressly relies on a pre-polymer having active groups for cross-linking to produce the resultant device. In marked contrast, applicants have found and claim “superfine polymer particles” (claim 1) that are “linear”, fully polymerized “high-molecular” weight polymers such as a methyl methacrylate copolymer (claims 6-8).

Stated otherwise, a principal difference between the claimed invention and Tonar et al. '431 is as follows. Tonar et al. '431 provides an electrochromic layer that is a heterogeneous system (a polymer matrix, in which an electrochromic solution is interspersed – col. 7, ln. 50-51, col. 30, ln. 30-37). The said heterogeneous system is produced from a homogeneous system (i.e. a solution)

by cross-linking. It has been found that the heterogeneous nature of the electrochromic layer can result in deteriorating optical properties due to diffusion of light.

In marked contrast to the Tonar et al. '431, the claimed invention is an electrochromic layer that is a homogeneous system (an electrochromic solution, in which are superfine polymer particles (see also par. [43] lines 5-6 of the description of the claimed invention as in published application US 2006/0050357 ...during dissolution of the disperse phase in the dispersion medium.”). This present homogeneous system is produced from a heterogeneous system (an electrochromic disperse system, including a suspension or colloid, wherein a dispersion medium is an electrochromic solution and a disperse phase of superfine polymer particulates). This electrochromic disperse system is not disclosed in Tonar et al. The present disperse system is a fortiori heterogeneous. The Tonar et al. method requires a chemical reaction for producing an electrochromic layer. The providing and subsequent dissolving of superfine polymer particles is a physical process. The Tonar et al. '431 method requires chemical reactions such as prepolymerization and crosslinking for producing an electrochromic layer.

The term “superfine polymer particulates” cannot be interpreted as “thoroughly mixing of solutions” (col. 27, lns. 32-34 of '431). “Superfine polymer particles” means polymer in the form of particles having a very small size i.e. less

than  $6 \times 10^{-5} \text{m}$ , as pointed out in the description of the claimed invention, (see claim 25).

Tonar et al. '431 does not disclose any disperse system with superfine polymer particulates. Amended claim 1 clearly defines over Tonar et al '431.

The claims are in form for allowance.

An early allowance is respectfully requested.

Respectfully submitted,

LACKENBACH SIEGEL, LLP

BY

  
Marvin Feldman  
Reg. 25, 797

MF:k

Date: October 23, 2006  
One Chase Road  
Scarsdale, NY 10583  
(914) 723-4300